

## REQUEST FOR PROPOSAL (RFP)

<b>Bid Event Number:</b>	EVT0001796
<b>Document Number:</b>	RFX0000320
<b>Replaces Contract:</b>	12164
<b>Date Mailed:</b>	October 23, 2012
<b>Closing Date:</b>	December 6, 2012, 2:00 PM
<b>Procurement Officer:</b>	Tami Sherley <b>Telephone:</b> 785-296-3122 <b>E-Mail Address:</b> <a href="mailto:tami.sherley@da.ks.gov">tami.sherley@da.ks.gov</a> <b>Web Address:</b> <a href="http://da.ks.gov/purch">http://da.ks.gov/purch</a>
<b>Item:</b>	Durable Medical Equipment, Related Equipment and Supplies
<b>Agency:</b>	Statewide
<b>Period of Contract:</b>	March 1, 2013 through February 28, 2015 (with the option to renew for one (1) additional two (2) year period)
<b>Guarantee:</b>	No Monetary Guarantee Required
<b>Scope:</b>	This Contract shall cover the procurement of Durable Medical Equipment [DME] (Wheelchairs) and Related Equipment and Supplies for various State agencies during the contract period referenced above.

---

Event Number EVT0001796 was recently posted to the Procurement and Contracts Internet website. The document can be downloaded by going to the following website:

<http://www.da.ks.gov/purch/RFO/>

**It shall be the bidder's responsibility to monitor this website on a regular basis for any changes/amendments.**

## SIGNATURE SHEET

Item: Durable Medical Equipment, Related Equipment and Supplies

Agency: Statewide

Closing Date: December 6, 2012

By submission of a bid and the signatures affixed thereto, the bidder certifies all products and services proposed in the bid meet or exceed all requirements of this specification as set forth in the request and that all exceptions are clearly identified.

Legal Name of Person, Firm or Corporation\_\_\_\_\_

Mailing Address\_\_\_\_\_City & State\_\_\_\_\_Zip \_\_\_\_\_

Toll Free Telephone\_\_\_\_\_Local\_\_\_\_\_Cell: \_\_\_\_\_Fax\_\_\_\_\_

Tax Number\_\_\_\_\_E-Mail\_\_\_\_\_

Signature\_\_\_\_\_Date\_\_\_\_\_

Typed Name \_\_\_\_\_Title\_\_\_\_\_

In the event the **contact for the bidding process** is different from above, indicate contact information below.

**Bidding Process** Contact Name\_\_\_\_\_

Mailing Address\_\_\_\_\_City & State\_\_\_\_\_Zip \_\_\_\_\_

Toll Free Telephone\_\_\_\_\_Local\_\_\_\_\_Cell: \_\_\_\_\_Fax\_\_\_\_\_

E-Mail\_\_\_\_\_

If **awarded a contract and purchase orders** are to be directed to an address other than above, indicate mailing address and telephone number below.

Mailing Address\_\_\_\_\_City & State\_\_\_\_\_Zip \_\_\_\_\_

Toll Free Telephone\_\_\_\_\_Local\_\_\_\_\_Cell: \_\_\_\_\_Fax\_\_\_\_\_

E-Mail\_\_\_\_\_

## **1.0 INSTRUCTIONS**

### **1.1 Bid Event ID / Reference Number:**

The Bid Event ID / RFP number, indicated in the header of this page, as well as on the first page of this proposal, has been assigned to this RFP and MUST be shown on all correspondence or other documents associated with this RFP and MUST be referred to in all verbal communications. All inquiries, written or verbal, shall be directed only to the procurement officer reflected on Page 1 of this proposal. There shall be no communication with any other State employee regarding this RFP except with designated state participants in attendance ONLY DURING:

- Negotiations
- Contract Signing
- as otherwise specified in this RFP.

Violations of this provision by bidder or state agency personnel may result in the rejection of the proposal.

### **1.2 Negotiated Procurement:**

This is a negotiated procurement pursuant to K.S.A. 75-37,102. Final evaluation and award will be made by the Procurement Negotiation Committee (PNC) consisting of the following entities (or their designees):

- Secretary of Department of Administration;
- Director of Procurement and Contracts, Department of Administration; and
- Head of Using Agency

### **1.3 Appearance Before Committee:**

Any, all or no bidders may be required to appear before the PNC to explain the bidder's understanding and approach to the project and/or respond to questions from the PNC concerning the proposal; or, the PNC may award without conducting negotiations, based on the initial proposal. The PNC reserves the right to request information from bidders as needed. If information is requested, the PNC is not required to request the information of all bidders.

Bidders selected to participate in negotiations may be given an opportunity to submit a revised technical and/or cost proposal/offer to the PNC, subject to a specified cut off time for submittal of revisions.

Meetings before the PNC are not subject to the Open Meetings Act. Bidders are prohibited from electronically recording these meetings. All information received prior to the cut off time will be considered part of the bidder's revised offer.

No additional revisions shall be made after the specified cut off time unless requested by the PNC.

### **1.3 Cost of Preparing Proposal:**

The cost of developing and submitting the proposal is entirely the responsibility of the bidder. This includes costs to determine the nature of the engagement, preparation of the proposal, submitting the proposal, negotiating for the contract and other costs associated with this RFP.

### **1.4 Preparation of Proposal:**

Prices are to be entered in spaces provided on the cost proposal form if provided herein. Computations and totals shall be indicated where required. In case of error in computations or totals, the unit price

shall govern. The PNC has the right to rely on any prices provided by bidders. The bidder shall be responsible for any mathematical errors. The PNC reserves the right to reject proposals which contain errors.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the Bid Event ID / RFP number and closing date.

A proposal shall not be considered for award if the price in the proposal was not arrived at independently and without collusion, consultation, communication or agreement as to any matter related to price with any other bidder, competitor or public officer/employee.

Technical proposals shall contain a concise description of bidder's capabilities to satisfy the requirements of this RFP with emphasis on completeness and clarity of content. Repetition of terms and conditions of the RFP without additional clarification shall not be considered responsive.

### **1.5 Signature of Proposals:**

Each proposal shall give the complete legal name and mailing address of the bidder and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line. If the contract's contact will be a different entity, indicate that individual's contact information for communication purposes. Each proposal shall include the bidder's tax number.

### **1.6 Acknowledgment of Amendments:**

All bidders shall acknowledge receipt of any amendments to this RFP by returning a signed hard copy with the bid. Failure to acknowledge receipt of any amendments may render the proposal to be non-responsive. Changes to this RFP shall be issued only by the Procurement and Contracts in writing.

### **1.7 Modification of Proposals:**

A bidder may modify a proposal by letter or by FAX transmission at any time prior to the closing date and time for receipt of proposals.

### **1.8 Withdrawal of Proposals:**

A proposal may be withdrawn on written request from the bidder to the Procurement Officer at the Procurement and Contracts prior to the closing date.

### **1.9 Competition:**

The purpose of this RFP is to seek competition. The bidder shall advise the Procurement and Contracts if any specification, language or other requirement inadvertently restricts or limits bidding to a single source. Notification shall be in writing and must be received by the Procurement and Contracts no later than five (5) business days prior to the bid closing date. The Director of Procurement and Contracts reserves the right to waive minor deviations in the specifications which do not hinder the intent of this RFP.

### **1.10 Evaluation of Proposals:**

Award shall be made in the best interest of the State as determined by the PNC or their designees. Although no weighted value is assigned, consideration may focus toward but is not limited to:

- Cost. Bidders are not to inflate prices in the initial proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations. The State reserves the right to award to the lowest responsive bid without conducting formal negotiations, if authorized by the PNC.
- Adequacy and completeness of proposal
- Bidder's understanding of the project

- Compliance with the terms and conditions of the RFP
- Experience in providing like services
- Qualified staff
- Methodology to accomplish tasks
- Response format as required by this RFP

**1.11 Acceptance or Rejection:**

The Committee reserves the right to accept or reject any or all proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this RFP; and unless otherwise specified, to accept any item in a proposal.

**1.12 Proposal Disclosures:**

At the time of closing, only the names of those who submitted proposals shall be made public information. No price information will be released. Interested bidders or their representatives may be present at the announcement at the following location:

Kansas Procurement and Contracts  
800 Jackson Street, Room 600  
Topeka, KS 66612 1286

Bid results will not be given to individuals over the telephone or email. Results may be obtained after contract finalization by obtaining a bid tabulation from the Procurement and Contracts by sending (do not include with bid):

- A check for \$3.00, payable to the State of Kansas
- A self-addressed, stamped envelope
- Bid Event ID Number

Send to:

Kansas Procurement and Contracts  
Attention: Bid Results/Copies  
800 Jackson Street, Room 600  
Topeka, KS 66612 1286

Copies of individual proposals may be obtained under the Kansas Open Records Act by sending an email to [janet.miller@da.ks.gov](mailto:janet.miller@da.ks.gov) or calling 785-296-0002 to request an estimate of the cost to reproduce the documents and remitting that amount with a written request to the above address or a vendor may make an appointment by calling the above number to view the proposal file. Upon receipt of the funds, the documents will be mailed. Information in proposal files shall not be released until a contract has been executed or all proposals have been rejected.

**1.13 Disclosure of Proposal Content and Proprietary Information:**

All proposals become the property of the State of Kansas. The Open Records Act (K.S.A. 45-215 et seq) of the State of Kansas requires public information be placed in the public domain at the conclusion of the selection process, and be available for examination by all interested parties. (<http://da.ks.gov/purch/KSOpenRecAct.doc>) No proposals shall be disclosed until after a contract award has been issued. The State reserves the right to destroy all proposals if the RFP is withdrawn, a contract award is withdrawn, or in accordance with Kansas law. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration or may be returned to the bidder.

Trade secrets or proprietary information legally recognized as such and protected by law may be requested to be withheld if clearly labeled "Proprietary" on each individual page and provided as separate from the main proposal. Pricing information is not considered proprietary and the bidder's entire proposal response package will not be considered proprietary.

All information requested to be handled as "Proprietary" shall be submitted separately from the main proposal and clearly labeled, in a separate envelope or clipped apart from all other documentation. The bidder shall provide detailed written documentation justifying why this material should be considered "Proprietary". The Procurement and Contracts reserves the right to accept, amend or deny such requests for maintaining information as proprietary in accordance with Kansas law.

The State of Kansas does not guarantee protection of any information which is not submitted as required.

**1.14 Exceptions:**

By submission of a response, the bidder acknowledges and accepts all terms and conditions of the RFP unless clearly avowed and wholly documented in a separate section of the Technical Proposal to be entitled: "Exceptions".

**1.15 Notice of Award:**

An award is made on execution of the written contract by all parties.

## **2.0 PROPOSAL RESPONSE**

### **2.1 Submission of Proposals:**

Bidder's proposal shall consist of:

- One (1) original and three (3) copies of the Technical Proposal, including the signed Event Details document, applicable literature and other supporting documents;
- One (1) original and three (3) copies of the cost proposal including the signed Event Details document,
- Two (2) electronic / software version(s) of the technical and cost proposals are required. This shall be provided on CD or flash drive, in Microsoft® Word or Excel. Technical and cost responses shall be submitted on separate media.

All copies of cost proposals shall be submitted in a separate sealed envelope or container separate from the technical proposal. The outside shall be identified clearly as "Cost Proposal" or "Technical Proposal" with the Bid Event ID number and closing date.

Bidder's proposal, sealed securely in an envelope or other container, shall be received no later than 2:00 p.m., Central Time, on the closing date, addressed as follows:

Kansas Procurement and Contracts  
Bid Event ID: EVT0001796  
Closing Date: December 6, 2012  
800 Jackson Street, Room 600  
Topeka, KS 66612 1286

It is the bidder's responsibility to ensure bids are received by the closing date and time. Delays in mail delivery or any other means of transmittal, including couriers or agents of the issuing entity shall not excuse late bid submissions.

Faxed, e-mailed or telephoned proposals are not acceptable unless otherwise specified.

Proposals received prior to the closing date shall be kept secured and sealed until closing. The State shall not be responsible for the premature opening of a proposal or for the rejection of a proposal that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container. Late Technical and/or Cost proposals will be retained unopened in the file and not receive consideration or may be returned to the bidder.

### **2.2 Proposal Format:**

Bidders are instructed to prepare their Technical Proposal following the same sequence as this RFP.

#### **Transmittal Letter:**

All bidders shall respond to the following statements:

- (a) the bidder is the prime contractor and identifying all subcontractors;
- (b) the bidder is a corporation or other legal entity;
- (c) no attempt has been made or will be made to induce any other person or firm to submit or not to submit a proposal;
- (d) the bidder does not discriminate in employment practices with regard to race, color, religion, age (except as provided by law), sex, marital status, political affiliation, national origin or disability;

- (e) no cost or pricing information has been included in the transmittal letter or the Technical Proposal;
- (f) the bidder presently has no interest, direct or indirect, which would conflict with the performance of services under this contract and shall not employ, in the performance of this contract, any person having a conflict;
- (g) the person signing the proposal is authorized to make decisions as to pricing quoted and has not participated, and will not participate, in any action contrary to the above statements;
- (h) whether there is a reasonable probability that the bidder is or will be associated with any parent, affiliate or subsidiary organization, either formally or informally, in supplying any service or furnishing any supplies or equipment to the bidder which would relate to the performance of this contract. If the statement is in the affirmative, the bidder is required to submit with the proposal, written certification and authorization from the parent, affiliate or subsidiary organization granting the State and/or the federal government the right to examine any directly pertinent books, documents, papers and records involving such transactions related to the contract. Further, if at any time after a proposal is submitted, such an association arises, the bidder will obtain a similar certification and authorization and failure to do so will constitute grounds for termination for cause of the contract at the option of the State;
- (i) bidder agrees that any lost or reduced federal matching money resulting from unacceptable performance in a contractor task or responsibility defined in the RFP, contract or modification shall be accompanied by reductions in state payments to Contractor; and
- (j) the bidder has not been retained, nor has it retained a person to solicit or secure a state contract on an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business. For breach of this provision, the Committee shall have the right to reject the proposal, terminate the contract for cause and/or deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

### **2.3 Bidder Information:**

The bidder must include a narrative of the bidder's corporation and each subcontractor if any. The narrative shall include the following:

- (a) date established;
- (b) ownership (public, partnership, subsidiary, etc.);
- (c) number of personnel, full and part time, assigned to this project by function and job title;
- (d) resources assigned to this project and the extent they are dedicated to other matters;
- (e) organizational chart;
- (f) financial statement may be required.

### **2.4 Qualifications:**

A description of the bidder's qualifications and experience providing the requested or similar service, including resumes of personnel assigned to the project stating their education and work experience, shall be submitted with the Technical Proposal. The bidder must be an established firm recognized for its capacity to perform. The bidder must have sufficient personnel to meet the deadlines specified in the RFP.

### **2.5 Timeline:**

A timeline for implementing services must be submitted with the bid.

### **2.6 Methodology:**

Bidders shall submit with the bid, a detailed explanation of the methodology for implementing services.



**2.7 References:**

Provide three (3) references who have purchased similar items or services from the bidder in the last five (5) year(s). References shall show firm name, contact person, address, e-mail address and phone number. Bidder's employees and the buying agency shall not be shown as references.

**2.8 Technical Literature:**

All Technical Proposals shall include specifications and technical literature sufficient to allow the State to determine that the equipment/services meet(s) all requirements. If a requirement is not addressed in the technical literature, it must be supported by additional documentation and included with the bid. Proposals without sufficient technical documentation may be rejected.

**2.9 Procurement Card (P-Card):**

Many State Agencies use a State of Kansas Procurement Card (currently Visa) in lieu of a state warrant to pay for certain purchases. No additional charges will be allowed for using the P-Card. Bidders shall indicate on the Event Details document if they will accept the Procurement Card for payment.

**2.10 Political Subdivisions:**

Political subdivisions (City, County, School Districts, etc.) are permitted to utilize contracts administered by the Procurement and Contracts. Please state in the area provided on the Event Details document whether or not you will allow this usage. Conditions included in this contract shall be the same for political subdivisions. The State has no responsibility for payments owed by political subdivisions. The Contractor must deal directly with the political subdivision.

### **3.0 TERMS AND CONDITIONS**

#### **3.1 Contract Documents:**

This RFP, any amendments, the response and any response amendments of the Contractor, and the State of Kansas DA-146a (Contractual Provision Attachment) shall be incorporated into the written contract, which shall compose the complete understanding of the parties.

In the event of a conflict in terms of language among the documents, the following order of precedence shall govern:

- Form DA 146a;
- written modifications to the executed contract;
- written contract signed by the parties;
- the RFP, including any and all amendments;
- and Contractor's written proposal submitted in response to the RFP as finalized.

#### **3.2 Contract:**

The successful bidder will be required to enter into a written contract with the State. The contractor agrees to accept the provisions of Form DA 146a (Contractual Provisions Attachment), which is incorporated into all contracts with the State and is incorporated into this RFP.

#### **3.3 Contract Formation:**

No contract shall be considered to have been entered into by the State until all statutorily required signatures and certifications have been rendered and a written contract has been signed by the successful bidder.

#### **3.4 Notices:**

All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") that may be required or desired to be given by either party to the other shall be IN WRITING and addressed as follows:

Kansas Procurement and Contracts

800 Jackson Street, Room 600

Topeka, Kansas 66612-1286

RE: Bid Event ID Number \_\_\_\_\_

or to any other persons or addresses as may be designated by notice from one party to the other.

#### **3.5 Termination for Cause:**

The Director of Procurement and Contracts may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

- the Contractor fails to make delivery of goods or services as specified in this contract;
- the Contractor provides substandard quality or workmanship;
- the Contractor fails to perform any of the provisions of this contract, or
- the Contractor fails to make progress as to endanger performance of this contract in accordance with its terms.

The Director of Procurement and Contracts shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as State may authorize in writing), the Director of Procurement and Contracts shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

### **3.6 Termination for Convenience:**

The Director of Procurement and Contracts may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director of Procurement and Contracts shall determine that the termination is in the best interest of the State of Kansas. In the event that the Director of Procurement and Contracts elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.

### **3.7 Rights and Remedies:**

If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

In the event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to or goods were accepted by State subject to any offset by State for actual damages including loss of federal matching funds.

The rights and remedies of the State provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

### **3.8 Force Majeure:**

The Contractor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes.

### **3.9 Waiver:**

Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by State shall not constitute a waiver.

### **3.10 Independent Contractor:**

Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever. The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation, social security, income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

### **3.11 Staff Qualifications:**

The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the contract specifications may result in termination of this contract or damages.

**3.12 Subcontractors:**

The Contractor shall be the sole source of contact for the contract. The State will not subcontract any work under the contract to any other firm and will not deal with any subcontractors. The Contractor is totally responsible for all actions and work performed by its subcontractors. All terms, conditions and requirements of the contract shall apply without qualification to any services performed or goods provided by any subcontractor.

The State of Kansas requires tax clearance certificates for all subcontractors be submitted with the technical proposal, and that the bidder additionally provide subcontractor(s) legal company name, contact information and tax ID number (FEIN/TIN) as well.

**3.13 Proof of Insurance:**

Upon request, the Contractor shall present an affidavit of Worker's Compensation, Public Liability, and Property Damage Insurance to the Procurement and Contracts.

**3.14 Conflict of Interest:**

The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the State and providing services involving this contract or services similar in nature to the scope of this contract to the State. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any state employee who has participated in the making of this contract until at least two years after his/her termination of employment with the State.

**3.15 Confidentiality:**

The Contractor may have access to private or confidential data maintained by State to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor must agree to return any or all data furnished by the State promptly at the request of State in whatever form it is maintained by Contractor. On the termination or expiration of this contract, Contractor will not use any of such data or any material derived from the data for any purpose and, where so instructed by State, will destroy or render it unreadable.

**3.16 Nondiscrimination and Workplace Safety:**

The Contractor agrees to abide by all federal, state and local laws, and rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws or rules or regulations may result in termination of this contract.

**3.17 Environmental Protection:**

The Contractor shall abide by all federal, state and local laws, and rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws or rule or regulations may result in termination of this contract for cause.

**3.18 Hold Harmless:**

The Contractor shall indemnify the State against any and all loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The State shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to state property. The Contractor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property.

**3.19 Care of State Property:**

The Contractor shall be responsible for the proper care and custody of any state owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this contract. The Contractor shall reimburse State for such property's loss or damage caused by Contractor, normal wear and tear excepted.

**3.20 Prohibition of Gratuities:**

Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

**3.21 Retention of Records:**

Unless the State specifies in writing a different period of time, the Contractor agrees to preserve and make available at reasonable times all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post contract period. Delivery of and access to the records shall be within five (5) business days at no cost to the state.

**3.22 Antitrust:**

If the Contractor elects not to proceed with performance under any such contract with the State, the Contractor assigns to the State all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the State of Kansas relating to the particular products or services purchased or acquired by the State pursuant to this contract.

**3.23 Modification:**

This contract shall be modified only by the written agreement and approval of the parties. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

**3.24 Assignment:**

The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the State. State may reasonably withhold consent for any reason.

This contract may terminate for cause in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the State.

**3.25 Third Party Beneficiaries:**

This contract shall not be construed as providing an enforceable right to any third party.

**3.26 Captions:**

The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

**3.27 Severability:**

If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.

**3.28 Governing Law:**

This contract shall be governed by the laws of the State of Kansas and shall be deemed executed in Topeka, Shawnee County, Kansas.

**3.29 Jurisdiction:**

The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas District Court of Shawnee County, unless otherwise specified and agreed upon by the State of Kansas. Contractor waives personal service of process, all defenses of lack of personal jurisdiction and forum non conveniens. The Eleventh Amendment of the United States Constitution is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this Agreement shall be deemed a waiver of the Eleventh Amendment.

**3.30 Mandatory Provisions:**

The provisions found in Contractual Provisions Attachment (DA-146a) are incorporated by reference and made a part of this contract.

**3.31 Integration:**

This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This Agreement between the parties shall be independent of and have no effect on any other contracts of either party.

**3.32 Debarment of State Contractors:**

Any Contractor who defaults on delivery or does not perform in a satisfactory manner as defined in this Agreement may be barred for up to a period of three (3) years, pursuant to K.S.A. 75-37,103, or have its work evaluated for pre-qualification purposes. Contractor shall disclose any conviction or judgment for a criminal or civil offense of any employee, individual or entity which controls a company or organization or will perform work under this Agreement that indicates a lack of business integrity or business honesty. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in disqualification of the bid or termination of the contract.

**3.33 Immigration and Reform Control Act of 1986 (IRCA):**

All contractors are expected to comply with the Immigration and Reform Control Act of 1986 (IRCA), as may be amended from time to time. This Act, with certain limitations, requires the verification of the

employment status of all individuals who were hired on or after November 6, 1986, by the contractor as well as any subcontractor or sub-contractors. The usual method of verification is through the Employment Verification (I-9) Form.

With the submission of this bid, the contractor hereby certifies without exception that such contractor has complied with all federal and state laws relating to immigration and reform. Any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and, at the State's option, may subject the contract to termination for cause and any applicable damages.

Unless provided otherwise herein, all contractors are expected to be able to produce for the State any documentation or other such evidence to verify Contractor's IRCA compliance with any provision, duty, certification or like item under the contract.

Contractor will provide a copy of a signed Certification Regarding Immigration Reform and Control Form (<http://da.ks.gov/purch/CertificationImmigrationForm.doc>) with the technical proposal.

### **3.34 Worker Misclassification:**

The contractor and all lower tiered subcontractors under the contractor shall properly classify workers as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes, and income tax withholding. Failure to do so may result in contract termination.

### **3.35 Injunctions:**

Should Kansas be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the State, Contractor shall not be entitled to make or assert claim for damage by reason of said delay.

### **3.36 Statutes:**

Each and every provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.

### **3.37 Federal, State and Local Taxes:**

Unless otherwise specified, the proposal price shall include all applicable federal, state and local taxes. The Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Contract. The State of Kansas is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the bidder's price quotation. Upon request, the State shall provide to the Contractor a certificate of tax exemption.

The State makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

### **3.38 Accounts Receivable Set-Off Program:**

If, during the course of this contract the Contractor is found to owe a debt to the State of Kansas, agency payments to the Contractor may be intercepted / setoff by the State of Kansas. Notice of the setoff action will be provided to the Contractor. Pursuant to K.S.A. 75-6201 et seq, Contractor shall have the opportunity to challenge the validity of the debt. If the debt is undisputed, the Contractor shall credit the account of the agency making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes Contractors against debts owed by the Contractors to the State of Kansas. Payments setoff in this

manner constitute lawful payment for services or goods received. The Contractor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.

### **3.39 Definitions:**

A glossary of common procurement terms is available at <http://da.ks.gov/purch>, under "Purchasing Forms".

### **3.40 Indefinite Contract:**

This Request is for an open-ended contract between a Contractor and the State to furnish an undetermined quantity of a good or service in a given period of time. The quantities ordered will be those actually required during the contract period, and the Contractor will deliver only such quantities as may be ordered. No guarantee of volume is made. An estimated quantity based on past history or other means may be used as a guide.

### **3.41 HIPAA Confidentiality:**

Per the Health Insurance Portability and Accountability Act (1996) (HIPAA), the agency is a covered entity under the act and therefore Contractor is not permitted to use or disclose health information in ways that the agency could not. This protection continues as long as the data is in the hands of the Contractor.

The Contractor shall establish and maintain procedures and controls acceptable to the agency to protect the privacy of members' information. Unless the Contractor has the member's written consent, the Contractor shall not use any personally identifiable information obtained for any reason other than that mandated by this agreement

### **3.42 Off-Shore Sourcing:**

Bidders shall disclose in their bid response the location where the contracted services will be performed and whether or not any of the work necessary to provide the contracted services will be performed at a site outside the United States.

If, during the term of the contract, the Contractor or subcontractor plans to move work previously performed in the United States to a location outside of the United States, the Contractor shall immediately notify the Procurement and Contracts and the respective agency in writing, indicating the desired new location, the nature of the work to be moved and the percentage of work that would be relocated. The Director of Procurement and Contracts, with the advice of the respective agency, must approve any changes prior to work being relocated. Failure to obtain the Director's approval may be grounds to terminate the contract for cause.

### **3.43 Experience:**

All bidders are preferred to have continuous active participation in the applicable industry, providing equipment/services comparable in size and complexity to those specified herein.

Bidders may be required to furnish information supporting the capability to comply with conditions for bidding and fulfill the contract if receiving an award of contract. Such information may include, but not be limited to, a list of similar size and type projects the bidder has completed.

### **3.44 Prices Lists:**

Each vendor must submit, prior to bid closing date and time, ONE (1) COPY of each manufacturer's or distributor's lowest current standard printed list from which prices are to be figured, together with descriptive literature and/or specifications of the products offered. All trade discounts must be shown as a single discount; all discounts must be firm for the life of the contract. No authorization will be issued to a vendor under this contract until this requirement is met.



Upon award of the contract, each successful bidder MAY be required to provide FORTY (40) COPIES of each manufacturer's prices lists and catalogs for distribution to various potential buying agencies.

The manufacturer may choose to submit the required catalogs in an effort to reduce unnecessary duplication.

If the manufacturer's price lists and/or catalog is available on the internet, please include that information in your bid response.

Price lists must be properly identified with manufacturer and/or distributor name and the date and shall be lowest current standard printed price lists and be so recognized by the trade.

When a price list contains more than one price column, the single unit price will be used as the basis for apply the discount.

### **3.45 Price List Changes:**

A change in manufacturer's pricing policy that does not change the NET COST to the vendor shall NOT constitute an increase or decrease under this contract.

### **3.46 CHAIN DISCOUNTS ARE NOT ACCEPTABLE:**

For the purpose of this document, a chain discount shall be defined as a graduated percentage discount scale based upon an increased volume of purchases.

Any terms and conditions contained in the price lists furnished with a bid are invalid unless they agree with the terms in this Contract.

### **3.47 Price Increases:**

During the life of the contract, only industry-wide price increases, reflected by manufacturers lowest current printed price lists, may be submitted to the Kansas Procurement and Contracts for consideration no more than once during any quarter of the contract period. (A quarter shall be defined as a three-month period, based on a January to December calendar year.) The State shall accept or reject these price increases within ten (10) days after receipt of notice. If an increase is rejected, the vendor may cancel such items from the contract by giving the Agency thirty (30) days written notice. Old prices must be honored on orders approved up to the date of formal notice of cancellation from vendor. **PRICE OF EQUIPMENT WILL BE DETERMINED AS OF THE DATE OF AUTHORIZATION TO THE VENDOR AND NOT THE DATE OF DELIVERY.**

### **3.48 Delivery Costs:**

All costs for delivery and assembly of equipment purchased under this contract will be included in the price quoted. Equipment is to be delivered by the vendor or his agent directly to persons specified in the delivery instructions.

Contractors are encouraged to coordinate unit delivery with contact an authorized agency representative PRIOR to delivery. This pre-delivery contact may help to complete the "official acceptance" of the equipment necessary to expedite payment.

**THE CONTRACTOR IS ULTIMATELY RESPONSIBLE FOR THE DELIVERY OF EACH PIECE OF EQUIPMENT, WHICH MUST BE DELIVERED COMPLETELY ASSEMBLED AND FULLY OPERATIONAL.**

Equipment purchased for clients will be ordered from a contractor representing the region in which the client lives. The State may specify a delivery point located outside the region (for instance, the need to utilize a seating specialist located in another region). Although this will be the exception rather than the

rule, bidders should take this matter into consideration when placing their bids. No additional charges for delivery to alternate regions will be considered.

### **3.49 Cash Discounts:**

Cash discounts will not be considered in determining the low bid. All cash discounts offered will be taken if earned.

### **3.50 Payment:**

Payment Terms are Net 30 days. Payment date and receipt of order date shall be based upon K.S.A. 75-6403(b). This Statute requires state agencies to pay the full amount due for goods or services on or before the 30th calendar day after the date the agency receives such goods or services or the bill for the goods and services, whichever is later, unless other provisions for payment are agreed to in writing by the Contractor and the state agency. NOTE: If the 30th calendar day noted above falls on a Saturday, Sunday, or legal holiday, the following workday will become the required payment date.

Payments shall not be made for costs or items not listed in the Contractor's response.

### **3.51 Unit Pricing:**

Each item required by the bid must be individually priced (i.e. priced per single unit) and be able to be ordered individually.

### **3.52 Upgrades:**

Bidders shall indicate the upgrade price and policy for any software, firmware, or hardware upgrades anticipated for the equipment bid. If the upgrades are provided without cost, this should be indicated.

### **3.53 Shipping and F.O.B. Point:**

Unless otherwise specified, bid prices shall be F.O.B. DESTINATION, PREPAID AND ALLOWED (included in the price bid), which means delivered to a state agency's receiving dock or other designated point as specified in this RFP without additional charge. Shipments shall be made in order to arrive at the destination at a satisfactory time for unloading during receiving hours.

### **3.54 Deliveries:**

All orders shall be shipped FOB destination, prepaid and allowed, within forty-five (45) days ARO, clearly marked with the purchase order number. If delays in delivery are anticipated, the Contractor shall immediately notify the ordering agency of the revised delivery date or partial delivery date. The order may be canceled if delivery time is unsatisfactory. The Contractor shall inform the Procurement and Contracts of any supply or delivery problems. Continued delivery problems may result in termination of the contract for cause.

In the event delivery minimums apply, bidders shall submit that information with their bid response.

### **3.55 Delayed and/or Late Delivery:**

In cases where the wheel chair requires installation of parts by one (1) or more subcontractors, the Contractor shall be responsible for the smooth transition of the wheelchair between installers. Each installer shall deliver the chair to the net installer when its part is complete. The Contractor shall notify the agency representative at the time the chair is being transferred to allow the agency to track its progress toward completion. The Contractor shall be responsible to notify the agency of any delays and to keep the chair moving to avoid untimely delivery to the client. The Contractor may incur a late fee of five (5%) percent of the cost of the chair, if delivery exceeds forty-five (45) business days after receipt of order.

With the understanding that delays that are clearly communicated ahead of time to the agency representative from the vendor will not be penalized.

At time of delivery, the Contractor shall provide an inspection period of five (5) days to allow the client time to test the wheelchair or related equipment in the home, community and work environments (except in cases of obvious abuse or misuse by the client.)

If the unit cannot be adjusted to fit the client's needs, the agency reserves the right to reject it. Only in this instance, the Contractor may request a restocking fee of up to fifteen (15%) percent of the price of the equipment to accept the return.

### **3.56 Charge Back Clause:**

If the Contractor fails to deliver the product within the delivery time established by the contract, the State reserves the right to purchase the product from the open market and charge back the difference between contract price and open market price to the Contractor.

### **3.57 Demonstration Requirements:**

A demonstration of the selected devices/equipment/solution for the using agencies may be required before final contract approval. The State of Kansas reserves the right to request said devices/equipment/solution fully configured/operational for testing, which shall be furnished at no expense to the State within ten (10) days after receipt of request. Devices/equipment will be returned at the bidder's expense if not consumed during the evaluation process.

### **3.58 Quarterly Reports:**

The Contractor shall be required to file a quarterly report by each state agency or political subdivision making purchases under this contract. Reports are due no later than 30 days after the end of each calendar quarter and shall correlate with figures submitted as Administrative Fees. Above referenced reports are to be filed with the Procurement and Contracts Open Records Officer or his/her designee located at 900 SW Jackson, Room 102N, Topeka, KS 66612-1286. Reports may also be required to be submitted to the specific using agency.

Electronic files shall be e-mailed to the following e-mail address: reports@da.ks.gov, in Microsoft® Excel or Microsoft® Access Database format.

The required reporting format may be found on the Procurement and Contracts website at <http://da.ks.gov/purch>, under the "Forms" link.

Report Types - Reports shall be available reflecting the following information. Agencies and the Procurement and Contracts reserve the right to request additional information.

Sales Summary -- Report shall include a list of agencies and political subdivisions who have used the contract, a subtotal of sales to each agency or political subdivision, as well as a grand total of all sales.

Items Sold -- Report shall include a list of items sold to agencies and political subdivisions, indicating the contract price and using agency, a subtotal of sales to each agency or political subdivision, as well as a grand total of all sales.

Items Sold, by Agency - Same as above, except sorted by agency.

### **3.59 Quarterly Report Contact Information:**

Contact information must be provided for use should the State of Kansas need to contact the appropriate officials within your company to discuss the issue of quarterly reports. Please complete the required information on the "Response Check List", attached.

### **3.60 Materials and Workmanship:**

The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by this Contract, within the time specified, in accordance with the provisions as specified.

The contractor shall be responsible for all work put in under these specifications and shall make good, repair and/or replace, at the contractor's own expense, as may be necessary, any defective work, material, etc., if in the opinion of agency and/or Procurement and Contracts said issue is due to imperfection in material, design, workmanship or contractor fault.

### **3.61 Industry Standards:**

If not otherwise provided, materials or work called for in this contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

### **3.62 Equipment:**

All proposed equipment, equipment options, and hardware expansions must be identified by manufacturer and model number and descriptive literature of such equipment must be submitted with the bid response.

### **3.63 Implied Requirements:**

All products and services not specifically mentioned in this RFP, but which are necessary to provide the functional capabilities described by the specifications, shall be included. Other products required to make the described software functional shall be identified in the bidder's response.

### **3.64 Acceptance:**

No contract provision or use of items by the State shall constitute acceptance or relieve the Contractor of liability in respect to any expressed or implied warranties.

### **3.65 Ownership:**

All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under this contract shall be owned by the using agency. The Contractor may not release any materials without the written approval of the using agency.

### **3.66 Data:**

Any and all data required to be provided at any time during the bid process or contract term shall be made available in a format as requested and/or approved by the State.

### **3.67 Inspection:**

The State reserves the right to reject, on arrival at destination, any items which do not conform with specification of the Contract.

**3.68 New Materials, Supplies or Equipment:**

Unless otherwise specified, all materials, supplies or equipment offered by the Contractor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

**3.69 Bidder Contracts:**

Bidders must include with their RFP response, a copy of any contracts, agreements, licenses, warranties, etc. that the bidder would propose to incorporate into the any contract generated from this Bid Event. (State of Kansas form DA-146a remains a mandatory requirement in all contracts.)

**3.70 Contract Price:**

Statewide contracts are awarded by the Procurement and Contracts to take advantage of volume discount pricing for goods and services that have a recurring demand from one or more agencies. However, if a state agency locates a vendor that can provide the identical item at a lower price, a waiver to "buy off state contract" may be granted by the Procurement and Contracts.

**3.71 Transition Assistance:**

In the event of contract termination or expiration, Contractor shall provide all reasonable and necessary assistance to State to allow for a functional transition to another vendor.

**3.72 Vendor Complaint Form:**

A copy of the Procurement and Contracts' "Complaint to Vendor" Form can be found: <http://da.ks.gov/purch/Complaint.doc>. The agency may use this form to report to provide feedback to the Procurement and Contracts on vendors whose service does not conform to the intent of the specifications.

**3.73 Client Choice:**

In an effort to work within the concept of "client choice", the State of Kansas reserves the right, notwithstanding language in the contract to the contrary, to place an order with a vendor who did not receive an award.

**3.74 Frame Colors:**

The client shall have his choice of any standard frame color available from the manufacturer as a standard (no additional cost) line item. Cost for special colors or finishes (splatter paint, for instance) must be paid for by the client.

**3.75 Basis of Awards/Acceptance:**

The State of Kansas reserves the right to accept or reject in part or in whole any bids submitted, and to waive minor technicalities when in the best interest of the State and the clients served.

In considering bids to determine the lowest and best bid, priority consideration will be given to bids from vendors who, AT THE TIME THE BID IS SUBMITTED, have a fully staffed retail or service outlet doing business within the region or city under consideration. The staffing for the retail outlet must include persons knowledgeable of the product lines and trained in fitting and adapting wheelchairs.

Bidders must submit (with their response) the professional qualifications of any staff member who will work directly with the clients in the fitting of and/or measuring for durable medical equipment involved in this contract.

### **3.76 Cancellation of Contracts:**

The Department of Administration further reserves the right to cancel the entire contract with any vendor who fails to perform in accordance with his bid as offered to and accepted by the State of Kansas.

The State shall grant such relief as necessary from performance of the contract if an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the vendor prevent the vendor from compliance and specific performance. Delays created by a manufacturer will be addressed on a case-by-case basis. The burden of proof for need of such relief shall rest upon the vendor.

Price increase due to any cause listed above shall not be considered as reason for release of a vendor from his obligation to accept and fill orders. To secure release based on an act of war, order of legal authority, act of God, etc., a vendor must file with the Procurement and Contracts good and sufficient evidence in writing, which is acceptable to the Procurement Officer, to show that merchandise is unobtainable.

### **3.77 Cancellation of Authorization:**

No cancellation of authorization or purchase order may be made except by the State of Kansas. Orders may be cancelled without consent of the vendor when necessary due to failure of the vendor to properly fulfill his contract with regard to delivery promise and/or quality of equipment delivered. If a client or his representative for some other reason, through no default on the part of the vendor, requests cancellation the vendor's permission to cancel will be necessary and will be requested prior to cancellation of the authorization.

### **3.78 Award:**

Award will be by line item or group total, whichever is in the best interest of the State of Kansas.

## 4.0 SPECIFICATIONS

### 4.1 Purpose:

The State of Kansas is issuing this Request for Proposal to obtain competitive responses from vendors to provide **Durable Medical Equipment [Wheelchairs] and Related Equipment and Supplies** for the Kansas Department of Social and Rehabilitation Services as the primary agency as well as various State of Kansas agencies, per the attached specifications and requirements

### 4.2 Term of Contract:

The term of this contract is for a two (2) year period starting March 1, 2013 with the option to renew for two [2] additional two (2) year renewals by written agreement of the parties.

### 4.3 Bidder Submissions:

Vendor may submit bids on any one item or any number of items, covering requirements of any of the geographic areas listed on the bid sheets. The State reserves the right to make the award to one (1) bidder or any number of bidders, whichever appears to be in the best interest of the State and the clients served. Consideration will be given to vendors who have retail and/or service establishments in the regions where they place bids.

It is highly likely that the award for a single region may be split between two (2) or more vendors. The expectations of the State are realistic enough to accept the fact that all bidders may not have access to all manufacturers.

### 4.4 Contractor Responsibilities: The Contractor shall:

- 4.4.1 Provide the wheelchair for State of Kansas agencies and clients after receipt of an authorization or purchase order in new and first class condition. Generally speaking, the authorization or purchase order will be issued following the receipt of a prescription form from the physician (consistent with agency policies) **AND** following an evaluation of the client's needs by the contractor. In other words, the contractor should double-check any prescription for errors before placing an order with the manufacturer.
- 4.4.2 Be responsible for assembly of the components prior to delivery to the client and/or secondary seating contractor.
- 4.4.3 **Not** be responsible for interfacing the wheeled base and the custom fabricated or custom fitted seating system, if the seating system is designed and manufactured by an alternate contractor.
- 4.4.4 Be responsible for pre-order measuring and the pre-delivery fit of the wheelchair. The contractor or designee with training and experience in measurement and fitting of the wheelchair components shall do this. The transaction will be considered completed when the chair and how it fits the client has been found acceptable by the client and/or counselor. The agency will be responsible for notifying the contractor if a custom seating system is to be interfaced with the wheelchair and the contractor will be responsible for communicating with the

provider of the custom seating system to ensure compatibility of the wheelchair and the seating system.

- 4.4.5 Notify an appropriate agency representative within five (5) working days if a prescription provided by someone other than the contractor is not internally consistent, incomplete or inappropriate for the individual, for reconciliation by the agency. (The period of time to report blatant equipment prescription errors begins with the date of the authorization.)
- 4.4.6 Make complete delivery within forty-five (45) business days from the date of the authorization or purchase order. In the event the vendor is unable to affect delivery by the forty-five (45) business DAY delivery deadline, the vendor must notify the appropriate representative in writing, stating reason for the delay and providing a revised delivery date. This notification must be made as soon as the vendor becomes aware of the delivery delay. The agency will then, at its discretion, either extend the authorization or cancel the order.
- 4.4.7 Notify an appropriate agency representative (within two (2) working days) **prior** to the delivery to the client and/or seating contractor of the wheelchair and the status of any undeliverable components that will be delivered at a later date.
- 4.4.8 Accept components that are returned due to contractor's measurement error, incompatibility with other wheelchair components and errors in filling the order and shall provide the correct component. The contractor shall not be responsible for an outside prescriber's error or client changes, and other items deemed by the State to be beyond the control of the contractor. Charges and/or refunds will be made only for the difference in the components prices and shall not include additional measurement or fitting fees.
  - 4.4.8.1 If an error that created the need for restocking was caused by a faulty outside prescription, the State will pay the restocking fee.
  - 4.4.8.2 If an error was committed during the fitting of the wheelchair by the contractor, the contractor will pay the restocking fee.
- 4.4.9 **Provide all equipment with a MINIMUM SIX (6) MONTH WARRANTY. Any repairs necessary during this warranty period shall be completed at no cost for parts, labor or travel (except in cases of obvious abuse or misuse by the user).**
- 4.4.10 Demonstrate and explain to the client and/or the client's representative how the equipment is to be operated and maintained at the time of delivery.
- 4.4.11 MAKE NO brand or model substitutions from the brand or model prescribed and authorized unless the contractor has obtained written permission from an authorized agency representative prior to the substitution.
- 4.4.12 Maintain a staff that is knowledgeable in product lines and trained in fitting and adapting wheelchairs. Contractors shall notify Procurement and Contracts (within 30 days) of changes of personnel within the Contractor's organization, which may have an affect on the performance of the contract.



In a case where a designated contractor should "sub-contract" an order, the designated contractor shall be ultimately responsible for the performance of the subcontractor. An authorized agency representative must approve all subcontractors in writing.

- 4.4.13 **Must perform a PREVENTIVE MAINTENANCE CHECK (PMC) of the equipment immediately prior to the six (6) month anniversary of the delivery of the equipment. Contractor will be responsible for all costs associated with the PMC, including transportation of the equipment to the contractor's facility, if required.**
- 4.4.14 Participate (with manufacturers) in educational conferences designed to help State of Kansas personnel understand the industry, the processes of evaluation, ordering, fitting and maintenance, as well as product availability.

Be prepared to work with Client and authorized agency representative in billing third party payers identified by the agency **AT THE TIME THE ORDER OR AUTHORIZATION IS PLACED** as possible sources for funds to supplement payment by the agency. Third party payers might include charitable organizations, private health insurance companies. **Contractor has the right to refuse to bill third party payers if doing so will significantly delay payment of the agency portion of the invoice amount.**

**Contractors may not solicit any type of payment from the client for services rendered under this contract, unless the authorized agency representative states that the client will be responsible for a portion of the cost of the equipment.** Occasionally, depending upon income requirements, a client or client's family may be responsible for paying a portion of the cost of the equipment. The amount of the client's portion will be made available to bidders during the initial measurement and evaluation. The client's portion, if applicable, shall be noted on a separate invoice mailed to the authorized agency representative.

**TRANSACTIONS INVOLVING MEDICAID AND/OR MEDICARE ARE NOT SUBJECT TO THE DISCOUNTS LISTED HEREIN.**

# BID FORM

**ESTABLISHING SERVICE REGIONS:** It is the intent of the State of Kansas to select contractors on a regional basis to maximize client service while keeping the travel requirement for initial consultations and post-delivery servicing to a minimum, benefiting both client and contractor.

**Bids should be submitted based upon the six (6) -region configurations listed on the next page.**

**The State recognizes that a higher number of wheelchairs and related DME will be purchased for clients within metropolitan areas simply because of the higher population. Good faith estimation reveals that about 60% of all equipment is delivered to clients in the metropolitan Wichita, Kansas City and Topeka areas.**

**List of Items to Be Bid By Location:** Attached are the bid sheets which list manufacturers from which equipment may be purchased. Upon receipt of the initial regional map, bidders are requested to refer to the map of Kansas and specify the percentage discount from manufacturer's lowest current printed price lists by region.

**If the manufacturer's price lists and/or catalog are available on the Internet / World Wide Web (www), please include that information in space provided below:**

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

## STATE OF KANSAS - SERVICE REGIONS

**Region #1:**

Cheyenne  
Rawlins  
Decatur  
Norton  
Sherman  
Thomas  
Sheridan  
Wallace  
Logan  
Gove

**Region #2:**

Phillips  
Smith  
Graham  
Rooks  
Osborne  
Trego  
Ellis  
Russell  
Rush  
Barton

**Region #3:**

Jewell  
Republic  
Washington  
Mitchell  
Cloud  
Clay  
Lincoln  
Ottawa  
Dickinson  
Ellsworth  
Saline  
Rice  
McPherson  
Marion

**Region #4:**

Marshall  
Nemaha  
Riley  
Pottawatomie  
Jackson  
Jefferson  
Geary  
Wabaunsee  
Shawnee  
Douglas  
Morris  
Lyon  
Osage

**Region #5:**

Brown  
Doniphan  
Atchison  
Leavenworth  
Wyandotte  
Johnson  
Franklin  
Miami

**Region #6:**

Greeley  
Wichita County  
Scott  
Lane  
Ness  
Hamilton  
Kearny  
Finney  
Hodgeman  
Pawnee  
Edwards  
Stanton  
Grant  
Haskell  
Gray  
Ford  
Kiowa  
Morton  
Stevens  
Seward  
Meade  
Clark  
Commanche

**Region #7:**

Stafford  
Reno  
Harvey  
Butler  
Chase  
Greenwood  
Pratt  
Kingman  
Sedgwick  
Barber  
Harper  
Sumner  
Cowley

**Region #8:**

Coffey  
Anderson  
Linn  
Woodson  
Allen  
Bourbon  
Elk  
Wilson  
Neosho  
Crawford  
Chautauqua  
Montgomery  
Labette  
Cherokee

**BID FORM**

REGION #1                      REGION #2

**MANUAL WHEELCHAIRS**

ACTION / INVACARE	_____ %	_____ %
QUICKIE	_____ %	_____ %
TI LITE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
KI MOBILITY	_____ %	_____ %
LIGHT STREAM	_____ %	_____ %
_____	_____ %	_____ %

**POWER WHEELCHAIRS**

ACTION / INVACARE	_____ %	_____ %
PRIDE (JAZZY)	_____ %	_____ %
PERMOBILE	_____ %	_____ %
QUICKIE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
_____	_____ %	_____ %

**SCOOTERS**

ACTION / INVACARE	_____ %	_____ %
AMIGO	_____ %	_____ %
ELECTRIC MOBILITY	_____ %	_____ %
PACESAVER	_____ %	_____ %
PILLER TECHNOLOGY	_____ %	_____ %
PRIDE	_____ %	_____ %
SHOPRIDER USA	_____ %	_____ %
_____	_____ %	_____ %

**MISCELLANEOUS**

JAY MEDICAL	_____ %	_____ %
ROHO	_____ %	_____ %
OTTO BOCK	_____ %	_____ %
INVACARE [SEATS/BACKS]	_____ %	_____ %
FREEDOM DESIGN	_____ %	_____ %
COMFORT COMPANY	_____ %	_____ %
AEL	_____ %	_____ %
_____	_____ %	_____ %
_____	_____ %	_____ %

**BATTERIES**

22NF LEAD ACID	Per Pair	\$ _____	\$ _____
22NF GEL CELL	Per Pair	\$ _____	\$ _____
U-1, GEL CELL	Per Pair	\$ _____	\$ _____
GROUP 24, LEAD ACID	Per Pair	\$ _____	\$ _____
GROUP 24, GEL CELL	Per Pair	\$ _____	\$ _____
TYPE _____	Per Pair	\$ _____	\$ _____

**POST-WARRANTY SERVICE**

LABOR COSTS	Per Hour	\$ _____	\$ _____
-------------	----------	----------	----------

(SHALL NOT APPLY TO TRAVEL TIME)

TRIP CHARGE (if any)	Round Trip	\$ _____	\$ _____
----------------------	------------	----------	----------

Vendor Name: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

REGION #3

REGION #4

**MANUAL WHEELCHAIRS**

ACTION / INVACARE	_____ %	_____ %
QUICKIE	_____ %	_____ %
TI LITE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
KI MOBILITY	_____ %	_____ %
LIGHT STREAM	_____ %	_____ %
_____	_____ %	_____ %

**POWER WHEELCHAIRS**

ACTION / INVACARE	_____ %	_____ %
PRIDE (JAZZY)	_____ %	_____ %
PERMOBILE	_____ %	_____ %
QUICKIE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
_____	_____ %	_____ %

**SCOOTERS**

ACTION / INVACARE	_____ %	_____ %
AMIGO	_____ %	_____ %
ELECTRIC MOBILITY	_____ %	_____ %
PACESAVER	_____ %	_____ %
PILLER TECHNOLOGY	_____ %	_____ %
PRIDE	_____ %	_____ %
SHOPRIDER USA	_____ %	_____ %
_____	_____ %	_____ %

**MISCELLANEOUS**

JAY MEDICAL	_____ %	_____ %
ROHO	_____ %	_____ %
OTTO BOCK	_____ %	_____ %
INVACARE [SEATS/BACKS]	_____ %	_____ %
FREEDOM DESIGN	_____ %	_____ %
COMFORT COMPANY	_____ %	_____ %
AEL	_____ %	_____ %
_____	_____ %	_____ %
_____	_____ %	_____ %

**BATTERIES**

22NF LEAD ACID	Per Pair	\$ _____	\$ _____
22NF GEL CELL	Per Pair	\$ _____	\$ _____
U-1, GEL CELL	Per Pair	\$ _____	\$ _____
GROUP 24, LEAD ACID	Per Pair	\$ _____	\$ _____
GROUP 24, GEL CELL	Per Pair	\$ _____	\$ _____
TYPE _____	Per Pair	\$ _____	\$ _____

**POST-WARRANTY SERVICE**

LABOR COSTS	Per Hour	\$ _____	\$ _____
(SHALL NOT APPLY TO TRAVEL TIME)			

TRIP CHARGE (if any)	Round Trip	\$ _____	\$ _____
----------------------	------------	----------	----------

**Vendor Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

	REGION #5	REGION #6
<b>MANUAL WHEELCHAIRS</b>		
ACTION / INVACARE	_____ %	_____ %
QUICKIE	_____ %	_____ %
TI LITE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
KI MOBILITY	_____ %	_____ %
LIGHT STREAM	_____ %	_____ %
_____	_____ %	_____ %

<b>POWER WHEELCHAIRS</b>		
ACTION / INVACARE	_____ %	_____ %
PRIDE (JAZZY)	_____ %	_____ %
PERMOBILE	_____ %	_____ %
QUICKIE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
_____	_____ %	_____ %

<b>SCOOTERS</b>		
ACTION / INVACARE	_____ %	_____ %
AMIGO	_____ %	_____ %
ELECTRIC MOBILITY	_____ %	_____ %
PACESAVER	_____ %	_____ %
PILLER TECHNOLOGY	_____ %	_____ %
PRIDE	_____ %	_____ %
SHOPRIDER USA	_____ %	_____ %
_____	_____ %	_____ %

<b>MISCELLANEOUS</b>		
JAY MEDICAL	_____ %	_____ %
ROHO	_____ %	_____ %
OTTO BOCK	_____ %	_____ %
INVACARE [SEATS/BACKS]	_____ %	_____ %
FREEDOM DESIGN	_____ %	_____ %
COMFORT COMPANY	_____ %	_____ %
AEL	_____ %	_____ %
_____	_____ %	_____ %
_____	_____ %	_____ %

<b>BATTERIES</b>			
22NF LEAD ACID	Per Pair	\$ _____	\$ _____
22NF GEL CELL	Per Pair	\$ _____	\$ _____
U-1, GEL CELL	Per Pair	\$ _____	\$ _____
GROUP 24, LEAD ACID	Per Pair	\$ _____	\$ _____
GROUP 24, GEL CELL	Per Pair	\$ _____	\$ _____
TYPE _____	Per Pair	\$ _____	\$ _____

<b>POST-WARRANTY SERVICE</b>			
LABOR COSTS	Per Hour	\$ _____	\$ _____
(SHALL NOT APPLY TO TRAVEL TIME)			

TRIP CHARGE (if any)	Round Trip	\$ _____	\$ _____
----------------------	------------	----------	----------

**Vendor Name:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

	REGION #7	REGION #8
<b>MANUAL WHEELCHAIRS</b>		
ACTION / INVACARE	_____ %	_____ %
QUICKIE	_____ %	_____ %
TI LITE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
KI MOBILITY	_____ %	_____ %
LIGHT STREAM	_____ %	_____ %
_____	_____ %	_____ %
<b>POWER WHEELCHAIRS</b>		
ACTION / INVACARE	_____ %	_____ %
PRIDE (JAZZY)	_____ %	_____ %
PERMOBILE	_____ %	_____ %
QUICKIE	_____ %	_____ %
WHEELCHAIRS OF KANSAS	_____ %	_____ %
_____	_____ %	_____ %
<b>SCOOTERS</b>		
ACTION / INVACARE	_____ %	_____ %
AMIGO	_____ %	_____ %
ELECTRIC MOBILITY	_____ %	_____ %
PACESAVER	_____ %	_____ %
PILLER TECHNOLOGY	_____ %	_____ %
PRIDE	_____ %	_____ %
SHOPRIDER USA	_____ %	_____ %
_____	_____ %	_____ %
<b>MISCELLANEOUS</b>		
JAY MEDICAL	_____ %	_____ %
ROHO	_____ %	_____ %
OTTO BOCK	_____ %	_____ %
INVACARE [SEATS/BACKS]	_____ %	_____ %
FREEDOM DESIGN	_____ %	_____ %
COMFORT COMPANY	_____ %	_____ %
AEL	_____ %	_____ %
_____	_____ %	_____ %
_____	_____ %	_____ %
<b>BATTERIES</b>		
22NF LEAD ACID	per Pair \$ _____	\$ _____
22NF GEL CELL	per Pair \$ _____	\$ _____
U-1, GEL CELL	per Pair \$ _____	\$ _____
GROUP 24, LEAD ACID	per Pair \$ _____	\$ _____
GROUP 24, GEL CELL	per Pair \$ _____	\$ _____
TYPE _____	per Pair \$ _____	\$ _____
<b>POST-WARRANTY SERVICE</b>		
LABOR COSTS	Per Hour \$ _____	\$ _____
(SHALL NOT APPLY TO TRAVEL TIME)		
TRIP CHARGE (if any)	Round Trip \$ _____	\$ _____

Vendor Name: \_\_\_\_\_ Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

BID FORM

WARRANTY AND POST-WARRANTY SERVICE

The following paragraph is repeated here to emphasize its importance:

The contractor shall “...provide all equipment with a MINIMUM SIX (6) MONTH WARRANTY. Any repairs necessary during this warranty period due shall be done at no cost for parts, labor or travel (except in cases of obvious abuse by the user).

PLEASE DESCRIBE ANY POST-WARRANTY SERVICE PROGRAMS OFFERED BY YOUR COMPANY

FOR THE PURPOSES OF THIS CONTRACT, “POST-WARRANTY” REFERS TO THE TIME BEYOND THE ALL-INCLUSIVE SIX (6) MONTH WARRANTY DESCRIBED ABOVE.

POST-WARRANTY SERVICE PROGRAMS:

INCLUDE DETAILS ABOUT SERVICE AGENTS (NAME & ADDRESS), COSTS AND/OR ALLOWANCES FOR LABOR AND/OR TRIP CHARGES. IF CLARIFICATIONS ARE NECESSARY, THE STATE OF KANSAS RESERVES THE RIGHT TO SECURE SUCH CLARIFICATIONS AFTER THE BID CLOSING. FAILURE TO INCLUDE POST-WARRANTY SERVICE INFORMATION MAY RESULT IN THE REJECTION OF BIDS. (IF NOT AVAILABLE, PLEASE STATE SO BELOW.)

MANUAL WHEELCHAIRS  
ELECTRIC WHEELCHAIRS  
SCOOTERS AND CARTS

IF A SERVICE CONTRACT IS NOT AVAILABLE (OR PURCHASED), THE FOLLOWING COSTS SHALL BE APPLIED TO POST-WARRANTY SERVICES:

LABOR COSTS (SHALL NOT APPLY TO TRAVEL TIME): \$ \_\_\_\_\_/HOUR  
TRIP CHARGE (ROUND TRIP): \$ \_\_\_\_\_/ROUND  
TRIP  
OTHER COSTS (BE SPECIFIC):

\_\_\_\_\_\$ \_\_\_\_\_  
\_\_\_\_\_\$ \_\_\_\_\_  
\_\_\_\_\_\$ \_\_\_\_\_



Department of Administration  
Procurement and Contracts  
DA-112 (Rev. 1/94)

**NOTICE OF  
COMPLAINT TO VENDOR**

DATE: \_\_\_\_\_  
PURCHASE ORDER NUMBER: \_\_\_\_\_  
CONTRACT NUMBER (if any): \_\_\_\_\_  
DATE OF PURCHASE ORDER: \_\_\_\_\_  
PROCUREMENT OFFICER: \_\_\_\_\_

Send to: **KANSAS PROCUREMENT AND CONTRACTS  
900 SW JACKSON, ROOM 102 N  
TOPEKA, KANSAS 66612-1286**

VENDOR INFORMATION		AGENCY INFORMATION	
NAME:  ADDRESS:		NAME:  ADDRESS:	
<input type="checkbox"/> Late Delivery <input type="checkbox"/> Refusal of Vendor to Deliver <input type="checkbox"/> Delivery Made After Hours <input type="checkbox"/> Under shipment <input type="checkbox"/> Over shipment <input type="checkbox"/> Inadequate Service		<input type="checkbox"/> Substitution by Vendor <input type="checkbox"/> Inferior or Shoddy Merchandise <input type="checkbox"/> Merchandise Not Properly Labeled <input type="checkbox"/> Damaged Shipment <input type="checkbox"/> Carrier Notified <input type="checkbox"/> Other – Explain Below in Space Provided for “Remarks”	
REMARKS: This space is to be used to: (1) Elaborate on items checked above or (2) Describe additional complaints. Be accurate, specific, complete, and factual.			
NAME AND TITLE OF PERSON INITIATING COMPLAINT		AUTHORIZED SIGNATURE	

This form should be filled out in triplicate. The original and one copy should be sent to the Kansas Procurement and Contracts, 900 SW Jackson, Room 102 N, Topeka, Kansas 66612-1286. The Agency will retain one copy.  
This form should not be sent to the vendor by the agency.

State of Kansas  
Department of Administration  
DA-146a (Rev. 06-12)

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Contractor agrees to comply with all applicable state and federal anti-discrimination laws.  
  
The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.